

**MOUNTAIN VIEW ORCHARDS BLOCK 2, LOT 16A, AP (LVI, LLC)  
ELEVEN-LOT MAJOR SUBDIVISION**

**STAFF REPORT FOR BOARD OF COUNTY COMMISSIONERS**

**CASE PLANNER:** Jennifer De Groot *JD*

**REVIEWED/  
APPROVED BY:** Renee Van Hoven *RW*

**PUBLIC HEARINGS/  
MEETINGS:** BCC Public Hearing: 10:00 a.m. June 19, 2007  
Deadline for BCC action (60 working days): August 20, 2007

**SUBDIVIDER/OWNER:** LVI, LLC  
PO Box 67  
Corvallis, MT 59828

**REPRESENTATIVE:** Chris Cobb-Taggart  
Professional Consultants, Inc.  
1713 N 1<sup>st</sup> Street  
Hamilton, MT 59840

**LOCATION OF REQUEST:** The property is located northeast of Corvallis off Birch Creek Loop.  
(See Map 1)



**Map 1: Location Map**  
(Source Data: Ravalli County GIS Department)

**LEGAL DESCRIPTION  
OF PROPERTY:**

Lot 16A of AP# 547149 located in the NE ¼ of Section 11, T7N,  
R20W, P.M.M., Ravalli County, Montana.

**APPLICATION  
INFORMATION:**

The subdivision application was determined complete on May 24,  
2007. Agencies were notified of the subdivision through mailings on  
January 12, 2007, and May 25, 2007, and comments received by the  
Planning Department not included in the application packet are  
Exhibits A-1 through A-6 of the staff report.

**LEGAL NOTIFICATION:**

A legal advertisement was published in the Ravalli Republic on  
Monday, June 4, 2007. Notice of the project was posted on the  
property and adjacent property owners were notified by certified mail  
postmarked May 25, 2007. No public comments have been received  
to date.

**PLANNING BOARD  
NOTIFICATION:**

At a meeting on April 4, 2007, the Planning Board Screening  
Committee recommended that full Planning Board review was not  
needed for this subdivision application.

**DEVELOPMENT  
PATTERN:**

Subject property	Agriculture
North	Agriculture
South	Agriculture and Low-Density Residential
East	Agriculture
West	Agriculture and Low-Density Residential

**INTRODUCTION**

The Mountain View Orchards Block 2, Lot 16A, AP major subdivision is an eleven-lot subdivision of 32.6 acres located northeast of Corvallis. This proposal is accessed via Bailey Lane and Birch Creek Loop, county-maintained roads. An internal subdivision road meeting county standards is proposed to provide access to lots within the subdivision. The northwestern corner of the property is identified on the preliminary plat as wetlands and appears to be part of a natural drainage fed by an underground spring. The subdivider has proposed a no-build/alteration zone over all the wetlands areas and drainage easements to contain runoff.

*Staff recommends conditional approval of the subdivision proposal.*

RAVALLI COUNTY BOARD OF COUNTY COMMISSIONERS

JUNE 19, 2007

MOUNTAIN VIEW ORCHARDS BLOCK 2, LOT 16A, AP  
ELEVEN-LOT MAJOR SUBDIVISION

**RECOMMENDED MOTION**

That the Mountain View Orchards Block 2, Lot 16A, AP Major Subdivision be **approved**, based on the findings of fact and conclusions of law in the staff report and subject to the conditions in the staff report.

**RECOMMENDED MITIGATING CONDITIONS OF APPROVAL FOR THE SUBDIVISION**

1. A document entitled "Notifications to Future Property Owners" that includes the following notifications and the attachments listed below shall be included in the submittal of the final plat to the Planning Department and filed with the final plat:

***Notification of Proximity to Agricultural Operations.*** This subdivision is located near existing agricultural activities. Some may find activities associated with normal agricultural activities objectionable and dangerous. (*Effects on Agriculture*)

***Limitation of Access onto a Public Road.*** A "no-ingress/egress" restriction exists along the Birch Creek Loop and North Birch Creek Road frontages of this subdivision, excepting the approved approach for the internal subdivision road and the existing agricultural access off North Birch Creek Road. All lots within this subdivision must use the approved approach off Birch Creek Loop. A "no-ingress/egress" restriction also exists along the southern boundary of the driveway easement traversing Lot 5. This limitation of access may be lifted or amended only with the approval of the Board of County Commissioners. (*Effects on Agriculture and Local Services*)

***Notification of Road Maintenance Agreement.*** The internal subdivision road is not maintained by Ravalli County, the State of Montana, or any other governmental entity. Neither the County nor the State assumes any liability for lacking or improper maintenance. A Road Maintenance Agreement for this road was filed with this subdivision and outlines which parties are responsible for maintenance and under what conditions. (*Effects on Local Services*)

***Notification of Storm Water Drainage Easements.*** Within this subdivision there are storm water drainage easements. No structure or obstruction may be placed within these easements that is not required for storm water management. (*Effects on Local Services and Public Health & Safety*)

***Notification of Irrigation Facilities and Easements.*** Within this subdivision there are irrigation easements, as shown on the final plat. All downstream water-right holders have the right to maintain and repair their irrigation facilities whenever necessary to keep them in good condition. The filed subdivision plat shows the irrigation easements on the property. Bitter Root Irrigation District must approve any relocation or alteration (e.g. installation of a culvert) of irrigation ditches/pipelines. Any act that damages or destroys a ditch, interferes with its operation or maintenance in any way, or restricts access to the ditch so as to interfere with its maintenance is expressly prohibited. The downstream water right holders and those acting with the approval of the Bitter Root Irrigation District have the right to use the easements to maintain the ditches. Please contact Bitter Root Irrigation District, 1182 Lazy J Lane, Corvallis, Montana, 59828, 961-1182 for more information. (*Effects on Agricultural Water User Facilities*)

**Notification of No-Build/Alteration Zone.** Within this subdivision there is a no-build/alteration zone located on Lots 2 and 5, and the common area, as shown on the plat, to restrict building in areas with wetlands and slopes greater than 25 percent. No new structure may be constructed in this area. No new utilities may be constructed in this area. No fill may be placed in this area and the vegetation shall be retained in its natural condition. Roads, trails, and utility crossings through this area are not permitted, except for the existing road easement used by the neighbors to the north of the property. The existing road easement cannot be expanded. If, in the future, the road is abandoned, the area where the road existed shall be under the same restrictions as the no-build/alteration zone. *(Effects on Natural Environment, Wildlife & Wildlife Habitat, Public Health & Safety)*

2. Protective covenants for this subdivision shall be submitted with the final plat that include the following provisions:

**Waiver of Protest to Creation of RSID/SID.** Owners and their successors-in-interest waive all rights in perpetuity to protest the creation of a city/rural improvement district for any purpose allowed by law, including, but not limited to, a community water system, a community wastewater treatment system, and improving and/or maintaining the roads that access the subdivision, including related right-of-way, drainage structures, and traffic control signs. *(Effects on Local Services)*

**Living with Wildlife.** (See Exhibit A-1 for required provisions.) *(Effects on Agriculture and Wildlife & Wildlife Habitat)*

**Riparian Buffer Zone.** There is a no-build/alteration zone within this subdivision that includes a wetlands area on a drainage that traverses Lots 2 and 5 and the common area. (See Exhibit A-1 for required provisions.) *(Effects on Natural Environment and Wildlife & Wildlife Habitat)*

**Lighting for New Construction.** To promote public health and safety, reduce energy consumption, and reduce impacts to nocturnal wildlife, full cut-off lighting is recommended for any new construction within this subdivision. A full cut-off fixture means a fixture, as installed, that is designed or shielded in such a manner that all light rays emitted by the fixture, either directly from the lamps or indirectly from the fixture, are projected below a horizontal plane through the lowest point on the fixture where light is emitted. The source of light should be fully shielded on the top and sides, so as not to emit light upwards or sideways, but only allowing light to shine down towards the subject that is to be lighted. For more information, visit [www.darksky.org](http://www.darksky.org). *(Effects on Natural Environment, Wildlife and Wildlife Habitat, and Public Health & Safety)*

**Radon Exposure.** The owner understands and accepts the potential health risk from radon concentrations, which are presently undetermined at this location. Unacceptable levels of radon can be reduced through building design and abatement techniques incorporated into structures. Property owners are encouraged to have their homes tested for radon. Contact the Ravalli County Environmental Health Department for further information. *(Effects on Public Health & Safety)*

**Control of Noxious Weeds.** A weed control plan has been filed in conjunction with this subdivision. Lot owners shall control the growth of noxious weeds on their respective lot(s). Contact the Ravalli County Weed District for further information. *(Effects on Natural Environment)*

**Required Posting of County-Issued Addresses for Lots within this Subdivision.** The Corvallis Rural Fire District has adopted the Uniform Fire Code which requires lot owners to post County-issued addresses at the intersection of the driveway leading to each residence and the road providing access to the lot as soon as construction on the residence begins. *(Effects on Local Services and Public Health & Safety)*

**Access Requirements for Lots within this Subdivision.** The Corvallis Rural Fire District has adopted the Uniform Fire Code. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 20', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Corvallis Rural Fire District for further information. *(Effects on Local Services and Public Health & Safety)*

**Amendment.** Written governing body approval shall be required for amendments to provisions of the covenants that were required to be included as a condition of subdivision approval. *(Effects on all six criteria)*

3. The subdividers shall include an RSID/SID waiver in a notarized document filed with subdivision plat that states the following: Owners and their successors-in-interest waive all rights in perpetuity to protest the creation of a city/rural improvement district for any purpose allowed by law, including, but not limited to a community water system, a community wastewater treatment system, and improving and/or maintaining the roads that access the subdivision including related right-of-way, drainage structures, and traffic control signs. *(Effects on Local Services)*
4. The subdivider shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. *(Effects on Local Services and Public Health & Safety)*
5. Prior to final plat approval, the subdividers shall provide a letter from the Corvallis Rural Fire District stating the subdividers have provided the required 1,000 gallon-per-minute water supply or 2,500 gallon-per-lot water storage for fire protection for each lot within this subdivision. Alternatively, the subdividers may provide evidence that a \$500-per-lot contribution has been made to the Corvallis Rural Fire District with the final plat submittal in lieu of the required water supply or water storage for fire protection. *(Effects on Local Services and Public Health & Safety)*
6. The subdivider shall submit a letter or receipt from the Corvallis School District stating that they have received a \$250-per-lot contribution prior to final plat approval. Alternatively, the subdivider may place an encumbrance on the final plat stating that the \$250 contribution shall be made to the School District upon first conveyance, including lease or rent, of each lot. *(Effects on Local Services)*
7. The final plat shall show no-ingress/egress zones along the Birch Creek Loop and North Birch Creek Loop frontages of the subdivision, and along the southern edge of the existing driveway access to the property described as the N1/2 N1/4 of Section 11, excepting the approach for the internal road and existing driveway access for the N1/2 N1/4 of Section 11, as approved by the Road and Bridge Department. *(Effects on Agriculture and Local Services)*
8. All existing and proposed storm water drainage easements shall be shown on the final plat as they were shown on the preliminary plat. The label for the storm water drainage easements on the final plat shall state that no structures are allowed within the storm water drainage

easements unless they are required for storm water management. *(Effects on Local Services and Public Health & Safety)*

9. All existing and proposed irrigation easements shall be shown on the final plat as they were shown on the preliminary plat. *(Effects on Agricultural Water User Facilities)*
10. The internal subdivision road shall be labeled as a "public road and utility easement" on the final plat. *(Effects on Local Services)*
11. A stop sign and road name sign shall be installed at the intersection of the internal subdivision road and Birch Creek Loop, as approved by the Planning Department, in consultation with the Ravalli County Road and Bridge Department, prior to final plat approval. *(Effects on Local Services and Public Health & Safety)*
12. The subdivider shall provide for an additional 5 (five) feet of public road and utility easement along the Birch Creek Loop frontage of the subdivision on the final plat. *(Effects on Local Services)*
13. The subdivider shall provide for an additional 5 (five) feet of public road and utility easement along the North Birch Creek Road frontage of the subdivision on the final plat. *(Effects on Local Services)*
14. The subdivider shall designate the wetlands areas and slopes steeper than 25 percent as no-build/alteration zones on the preliminary plat on the final plat. The no-build/alteration zone shall not cover irrigation easements. *(Effects on Agricultural Water User Facilities, Natural Environment, Wildlife & Wildlife Habitat, and Public Health & Safety)*

## **SUBDIVISION REPORT**

### **COMPLIANCE WITH PRIMARY SUBDIVISION REVIEW CRITERIA**

#### **CRITERION 1: EFFECTS ON AGRICULTURE**

##### **Findings of Fact:**

1. The proposed major subdivision on 32.6 acres will result in 11 lots that range in size from 2.0 acres to 4.29 acres. The property is located approximately 5.25 miles northeast of the community of Corvallis off Birch Creek Loop.
2. The property is located in an area of low density-residential and agricultural uses. To mitigate impacts on agriculture, a notification of proximity to agricultural operations shall be included in the notifications document filed with the final plat. The protective covenants, also filed with the final plat, shall include a provision requiring homeowners to keep pets confined to the house, a fenced yard, or in an outdoor kennel. (*Conditions 1 and 2*)
3. According to the application, the property is currently being used for agricultural purposes and has been used for hay production in the past.
4. According to the Web Soil Survey published by the U.S. Department of Agriculture, Natural Resources Conservation Service (NRCS), the property may have soils listed as farmland of unique importance. (Exhibit A-2)
5. According to the application, an existing driveway easement for the benefit of the Zachas is located on the subject property diagonally from North Birch Creek Loop to the Zachas' property, across the proposed no-build alteration zone identified as a wetlands area. It appears to be used as an agricultural access. No approach permit was provided for this access, nor is a formal easement filed.
6. Per a conversation with Mike Nichols of the Ravalli County Road and Bridge Department on May 21, 2007, there are many existing agricultural accesses off county-maintained roads that do not have formal approval from the Road and Bridge Department. He does not require permits for existing agricultural accesses.
7. A one-foot no access strip is proposed along the southern edge of the driveway easement as it traverses Lot 5 to restrict ingress and egress to only the Zachas for agricultural purposes. The future owners of Lot 5 will not be allowed to access their property from North Birch Creek Loop because it was not part of the subdivision proposal and the potential disturbance of wetlands. To mitigate impacts on agriculture and to allow the Zachas continued access for farming purposes, the applicant shall show a non-ingress/egress zone along the southern edge of the existing driveway on the final plat. (*Condition 7*)
8. To notify the future owners of Lot 5 that they cannot use this easement to access the subdivision, a notification of Limitation of Access onto a Public Road shall be filed with the final plat. (*Condition 1*)

##### **Conclusions of Law:**

1. The creation of these lots will diminish potential agricultural uses on this property and may take Farmland of Unique Importance out of production.
2. With the mitigating conditions of approval and requirements of final plat approval, impacts of the subdivision on surrounding agriculture will be reduced.

#### **CRITERION 2: EFFECTS ON AGRICULTURAL WATER USER FACILITIES**

##### **Findings of Fact**

1. The application states that 16 irrigated acres of water are provided to the property by the Bitter Root Irrigation District (BRID).
2. Existing irrigation pipelines are located along the northern and western boundaries of the subject property as shown on the preliminary plat. The latter pipeline easement along the

northern body of the subject property was secured in an agreement between LVI, LLC and Russell and Bonnie Zacha recorded on February 24, 2006.

3. The applicant has proposed additional irrigation pipeline easements along the lot boundaries between Lots 6 and 7 of the proposed subdivision and along the eastern boundary of the internal subdivision road, which will provide Lots 1 and 2 and Lots 5 through 11 with water. It is not clear how Lots 3 or 4 will access irrigation water.
4. Lots 1, 3, 4, 6, and 11 will be allotted 1.4 irrigated acres each and Lots 2, 5, 7, 8, 9, and 10 will each be allotted 1.5 irrigated acres.
5. A letter from Bitter Root Irrigation District, dated October 12, 2006, states their approval of the re-allocation of water rights and Irrigation Plan. (*Application*)
6. Installation of irrigation infrastructure is required to be completed prior to final plat approval.
7. To notify future property owners of the irrigation rights associated with this property and the role of the Irrigation District and to mitigate potential impacts on agricultural water user facilities, a notification of the irrigation facilities and easements shall be filed with the final plat. (*Condition 1*)
8. In order to mitigate impacts of the subdivision on agricultural water user facilities, existing and proposed irrigation easements shall be shown on the final plat as a condition of approval. (*Condition 9*)
9. Due to the wetlands and steep slopes traversing Lots 2 and 5, and the common area, the applicant is proposing a no-build/alteration zone. To mitigate impacts on agricultural water user facilities and allow for the maintenance of irrigation infrastructure, the no-build/alteration zone on the final plat shall not cover any existing or proposed irrigation easements. (*Condition 14*)

#### Conclusion of Law:

With the mitigating conditions of approval and requirements of final plat approval, impacts on agricultural water user facilities will be reduced.

### **CRITERION 3: EFFECTS ON LOCAL SERVICES**

#### Findings of Fact:

1. There are eleven proposed single-family residential lots and one common area within this subdivision. It is estimated at build-out that this subdivision will generate a total of 88 vehicular trips per day, assuming 8 trips per day per single-family dwelling.
2. Bailey Lane and Birch Creek Loop, County-maintained roads providing access to the subdivision, do not meet County standards. The applicant is required to pay the pro rata share of the cost to improve the portions of these roads providing access to the subdivision to meet County standards.
3. In an email dated March 30, 2007, David Ohnstad, County Road Supervisor, stated that the impacts to Bailey Lane would be appropriately mitigated through pro rata. (*Application*) He did not agree that additional traffic volume on Birch Creek Loop would be mitigated through pro rata. He suggested that appropriate mitigation of traffic impacts to Birch Creek Loop would be grading, aggregate surfacing, and placing an ACP surface on the subject section of Birch Creek Loop from the intersection of Bailey Lane to the project access.
4. Since there were no significant impacts to Local Services identified, Staff is not recommending the applicant be required to go above and beyond the pro rata requirement for Birch Creek Loop. Staff notes that the Road Department is concerned about the current state of Birch Creek Loop.
5. Section 5-4-4(d) of the RCSR requires roads in a new development to be connected to a right-of-way or easement in adjacent platted areas to allow for proper inter-neighborhood traffic flow. North Birch Creek Road is adjacent to the property, but it is not in a separate platted area. The subject property and the properties to the west are all part of the same Mountain View Orchards plat. Therefore, the applicant is not required to connect an internal subdivision road to North Birch Creek Road.



6. With this subdivision, it is estimated that approximately 5 school-aged children will be added to the Corvallis School District, assuming an average of .5 children per single family residence (Source: Census 2000).
7. The Corvallis School District was notified of the subdivision proposal. In a letter dated January 18, 2007, the School District stated that it has no specific objection to the subdivision, but noted that an increase in students continues to affect their infrastructure. The subdivider is proposing to contribute a voluntary donation of \$250-per-lot to the school district. A condition that the subdivider provides evidence of a contribution to the School District is required prior to final plat approval. (*Condition 6*) (*Application*)
8. To mitigate impacts on local services, the subdivider shall apply for County-issued addresses. A provision requiring property owners to post County-issued addresses at their driveways shall be in the covenants. (*Conditions 2 and 4*)
9. The developer has proposed a one-foot non-ingress/egress strip along the entire western boundary of the parcel and the southern edge of the existing driveway that travels northeast from North Birch Creek Loop to the Zacha property.
10. To mitigate impacts on the local road system, the final plat shall show a no-ingress/egress zone along the Birch Creek Loop and North Birch Creek Loop frontages of the subdivision, excepting the Ravalli County Road and Bridge Department (RCRBD) approved approach for the internal subdivision road and the existing agricultural access off North Birch Creek Loop. The final plat shall also show a non-ingress/egress zone along the southern edge of the existing driveway in the northwest corner of the parcel. A notification of this limitation of access shall be included in the notifications document. (*Conditions 1 and 7*)
11. To mitigate potential impacts of this subdivision on any possible future public water, sewer system, or improvements to the road system, the RSID/SID waiver filed with the final plat shall address these services/facilities. (*Conditions 2 and 3*)
12. Bitterroot Disposal provides service to this site.
13. The Ravalli County Sheriff's Office provides law enforcement services to this area.
14. Public services are adequate to serve this subdivision.
15. A stop sign and road name sign are proposed at the intersection of the internal subdivision road, currently called Desperado Trail, and Birch Creek Loop. The stop sign and road name sign shall be installed prior to final plat approval. (*Condition 11*)
16. Submittal of a final grading and drainage plan approved by Montana Department of Environmental Quality (DEQ), a General Discharge Permit for Storm water Associated with Construction activity from DEQ (if required), an approved approach permit from the Ravalli County Road and Bridge Department for the internal subdivision road(s), an approved road name petition, and certification that the constructed road meets County standards are requirements of final plat approval.
17. The subdivider has received preliminary road name approval for the internal subdivision road, Desperado Trail. (*Application*) As a requirement of final plat approval (Section 3-4-4(a)), the subdivider shall submit a road name petition approved by the Ravalli County GIS Department for the internal subdivision road prior to final plat approval.
18. Installation of all infrastructure improvements is required to be completed prior to final plat approval, which includes construction of the roads and storm water drainage facilities for the interior road, and installation of the stop sign and road name sign.
19. Individual wells and wastewater treatment systems are proposed to serve the lots. (*Effects on Natural Environment*)
20. To mitigate impacts on local services and ensure public access, the easement for the internal subdivision road shall be labeled as a public road and utility easement on the final plat. (*Condition 10*)
21. The subdivider is proposing to construct one internal subdivision road to provide service to all the lots within the subdivision. The application packet states that the internal road is proposed to meet County standards and have an 18-foot-wide asphalt paved travel surface with two-foot shoulder widths within a 60-foot-wide public utility easement. The road plans have received

preliminary approval by the Road Department. An engineer's certification that the roads meet County standards and final plans approved by the Road Department is a requirement of final plat approval. (*Application*)

22. A preliminary road maintenance agreement was included in the application packet. The final plat application packet is required to include a road maintenance agreement that meets the requirements of the Ravalli County Subdivision Regulations. A notification of the road maintenance agreement shall be included in the notifications document filed with the final plat. (*Condition 1*)
23. According to COS 580433, Birch Creek Loop is currently within a 50-foot-wide easement. To mitigate impacts on local services, the subdivider shall provide for an additional five feet of public road and utility easement along the Birch Creek Loop frontage of the subdivision. (*Condition 12*)
24. According to AP 547149, North Birch Creek Road is currently within a 50-foot-wide easement. To mitigate impacts on local services, the subdivider shall provide for an additional five feet of public road and utility easement along the North Birch Creek Road frontage of the subdivision. (*Condition 13*)
25. The subdivision is located within the Corvallis Rural Fire District. The Corvallis Rural Fire District has provided comments on previous subdivision proposals indicating they have adopted a policy which addresses access, posting of addresses, and water supply requirements. The subdivider shall meet the water supply requirements for the Corvallis Rural Fire District, which is a 1,000 gallon per minute water supply or a 2,500 gallon per lot water storage. Alternatively, the subdivider can contribute \$500 per lot and provide a letter from the Corvallis Rural Fire District that the contribution has been made prior to final plat approval. Conditions of approval will meet the recommendations of the Corvallis Rural Fire District. (*Exhibit A-3*) (*Conditions 2 and 5*)
26. The parkland dedication required for this subdivision is 1.43 acres. The subdivider has proposed a common area of 1.70 acres. The Ravalli County Park Board has concurred with this proposal. The subdivider is proposing to have the property owner's association maintain the common area. (*Exhibit A-4 and Application*)
27. In an email dated April 27, 2007, Jean Ramer of the US Army Corps of Engineers stated that the Corps would not consider a cash-in-lieu of parklands option as appropriate because the wetland areas should be left undisturbed. The applicant has proposed a no-build/alteration zone on the wetlands. (*Exhibit A-5*)
28. In order to ensure the proper drainage of this subdivision and to mitigate impacts on local services, a notification of storm water drainage easements shall be included in the notifications document to be filed with the final plat. All existing and proposed drainage easements shall be labeled on the final plat as a requirement of final plat approval (*Conditions 1 and 8*)

#### Conclusion of Law:

With the mitigating conditions of approval and requirements of final plat approval, impacts of the subdivision on local services will be reduced.

#### **CRITERION 4: EFFECTS ON NATURAL ENVIRONMENT**

##### Findings of Fact:

1. According to the Ravalli County Subdivision Noxious Weed Evaluation Form approved by the Weed District, Category 1 weeds, including Canada Thistle and Houndstongue, are present on the property. (*Application*)
2. An approved noxious weed and vegetation control plan is required to be filed with the final plat. According to MCA 7-22-2152, any person proposing a development that needs state or local approval and that results in the potential for noxious weed infestation within a weed district shall notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a revegetation plan, such as road construction, the plan shall be submitted to the weed board for approval by the board. The subdivider has proposed a provision in the covenants that

the owners of each lot control noxious weeds. To mitigate impacts on the natural environment, a noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision. (*Condition 2*)

3. To mitigate the impacts of light pollution stemming from new construction, the protective covenants shall include a provision recommending full cut-off lighting on new construction. (*Condition 2*)
4. The Ravalli County Environmental Health Department provided documentation indicating that they have received adequate information for local subdivision review to occur. (*Exhibit A-6*)
5. Individual wells and wastewater treatment systems are proposed to serve lots within the subdivision. A Certificate of Subdivision Plat Approval from Montana Department of Environmental Quality (DEQ) is required to be submitted with the final plat.
6. The preliminary plat shows potential wetlands/natural drainage on the property traveling south from the northwest corner of the proposal. It also depicts an area of slopes greater than 25 percent.
7. Jean Ramer with the US Army Corps of Engineers stated in an email sent April 27, 2007, that it is preferable for wetlands within the subdivision to be left undisturbed. She noted that her regulations require wetland areas to be avoided, if at all possible. (*Exhibit A-5*)
8. To mitigate impacts on the natural environment, the areas with wetlands and slopes greater than 25 percent shall be identified as a no-build/alteration zone on the final plat, as shown on the preliminary plat. A notification of the no-build/alteration zones shall be included in the notifications document. The protective covenants shall include Riparian Buffer Zone provisions restricting development in the no-build/alteration zone as suggested by Montana Fish, Wildlife & Parks. (*Conditions 1, 2, and 14*)

#### Conclusion of Law:

Impacts from this subdivision on the natural environment will be reduced with the mitigating conditions and requirements of final plat approval.

#### **CRITERION 5: EFFECTS ON WILDLIFE & WILDLIFE HABITAT**

##### Findings of Fact:

1. The property is located in the foothills of the Sapphire Mountains and is in the proximity of Birch Creek. It is approximately 5 miles northeast of Corvallis and adjacent to parcels ranging from approximately two acres to parcels larger than 40 acres in size.
2. A letter from Montana Fish, Wildlife, and Parks (FWP) noted that topography in this area is favored by wildlife for habitat and movement corridors. FWP recommends that Living with Wildlife provisions be included with the covenants for this subdivision. To protect the wetlands area in the northeast corner of the proposal, it also recommends that Riparian Use Guidelines be included with the covenants for proposed Lot 5 and the common area. (*Exhibit A-1*) (*Condition 2*)
3. The property is not located within big-game winter range, as identified by Montana Fish, Wildlife, and Parks.
4. According to the Montana Natural Heritage Program, the Bobolink and Townsend's Big-Eared Bat are located in the same section as the proposal. Due to lack of suitable habitat for these species, the subdivider requested and received a waiver from the requirement to submit a sensitive species report. (*Application*)
5. According to the application, the wetlands located in the northwest corner of the property are a nesting place for waterfowl.
6. To mitigate impacts on the waterfowl, the subdivider has proposed a no-build/alteration zone around the wetlands delineated on the preliminary plat. As a requirement of final plat approval, the wetlands will be labeled as a no-build/alteration zone on the final plat and a notification of the no-build/alteration zone will be included in the notifications documents filed with the final plat. (*Conditions 1 and 14*)
7. To mitigate the impacts of light pollution stemming from new construction, the protective

covenants shall include a provision recommending full cut-off lighting on new construction.  
(Condition 2)

Conclusion of Law:

With the mitigating conditions of approval and requirements of final plat approval, impacts on Wildlife & Wildlife Habitat will be reduced.

**CRITERION 6: EFFECTS ON PUBLIC HEALTH & SAFETY**

Findings of Fact:

1. To mitigate impacts on Public Health & Safety, the subdivider shall apply for County-issued addresses and a provision requiring property owners to post County-issued addresses at their driveways shall be in the covenants. (Conditions 2 and 4)
2. The proposed subdivision is located within the Corvallis Rural Fire District. Conditions 2 and 5 address impacts to the District.
3. To mitigate the impacts of light pollution stemming from new construction, the protective covenants shall include a provision recommending full cut-off lighting on new construction. (Condition 2)
4. There is a prevalence of radon in the County and to mitigate impacts on Public Health & Safety, the covenants shall include a statement regarding radon exposure. (Condition 2)
5. To mitigate impacts on local services and Public Health & Safety, stop signs and road name signs shall be installed at the intersection of the internal road and Birch Creek Loop prior to final plat approval. (Condition 11)
6. The Ravalli County Sheriff's Office provides services to this subdivision.
7. Individual wells and wastewater treatment systems are proposed for lots within this subdivision. (Natural Environment)
8. The preliminary plat shows that Lot 5 has steep slopes (greater than 25%), which are required to be identified as no build/alteration zones on the final plat. In order to mitigate impacts on Public Health & Safety, notification of the no-build/alteration zone shall be included in the notifications document and the no-build/alteration zone shall be placed on the final plat. (Conditions 1 and 14)
9. The subdivider has proposed an eight-foot pedestrian pathway with a four-foot gravel surface pathway along the western border of the proposed internal subdivision road. This allows for pedestrian and bike travel on a surface other than the main road used for vehicular traffic.
10. The Ravalli County Park Board concurred with the subdivider's proposal to create a common area of 1.70 acres for the benefit of the subdivision residents. A 20-foot easement for a common area pathway is proposed by the subdivider to provide access to the residents for recreational opportunities. (Exhibit A-4)

Conclusion of Law:

The mitigating conditions and requirements of final plat approval will address impacts on Public Health & Safety.

**COMPLIANCE WITH:**

**1) THE SURVEY REQUIREMENTS PROVIDED FOR IN PART 4 OF M.C.A. 76-3.**

Finding of Fact:

The Seal of a Professional Land Surveyor or Engineer is required on all final plats, which states that the subdivision complies with part 4 of M.C.A. 76-3.

Conclusion of Law:

This proposal meets the survey requirements, or conditions have been required to bring the proposal into compliance.

**2) THE LOCAL SUBDIVISION REGULATIONS PROVIDED FOR IN PART 5 OF M.C.A. 76-3.**

Finding of Fact:

Subdivisions are required to comply with the local subdivision regulations provided for in part 5 of M.C.A. 76-3.

Conclusion of Law:

The subdivider has submitted a plan that complies with the requirements of local subdivision regulations, or conditions have been required that will bring the plan into compliance.

**3) THE LOCAL SUBDIVISION REVIEW PROCEDURE PROVIDED FOR IN THE RAVALLI COUNTY SUBDIVISION REGULATIONS**

Findings of Fact:

1. Subdivisions are required to comply with the local subdivision review procedure provided for in the Ravalli County Subdivision Regulations.
2. A decision of the governing body rejecting or approving a proposed subdivision may be appealed to the district court within thirty (30) days of such decision. The petition shall specify the grounds upon which the appeal is made. An appeal may be made by the subdivider; a landowner with a property boundary contiguous to the proposed subdivision or a private landowner with property within the unincorporated area of the county that can show a likelihood of material injury to the landowner's property or its value; a first class municipality if the subdivision is within three miles of its limits, a second class municipality if a subdivision is within two miles of its limits, or a third class municipality or town if the subdivision is within one mile of its limits. An aggrieved party means a person who can demonstrate a specific personal and legal interest, as distinguished from a general interest, who has been or is likely to be specially and injuriously affected by the decision.

Conclusion of Law:

This development plan proposal has followed the necessary application procedure and has been reviewed within the procedures provided in Chapter 3 of the Ravalli County Subdivision Regulations.

**CONSISTENCY WITH EXISTING ZONING AND COVENANTS**

Findings of Fact:

1. There are no existing covenants on the property.
2. This property is not located within a voluntary zoning district.
3. Minimum lot size is 2.00 acres. The proposal complies with the interim County-wide zoning regulations.

Conclusion of Law:

The property appears to comply with existing covenants and zoning.

**PROVISION OF EASEMENTS FOR UTILITIES**

Findings of Fact:

1. The preliminary plat indicates that existing utility easements are located along Birch Creek Loop and North Birch Creek Loop. Utility easements are proposed along the internal subdivision road.
2. According to the application, the proposed subdivision will be served by NorthWestern Energy, Ravalli Electric Cooperative and Qwest Communications. Utility companies have been notified of the proposed subdivision. No comments have been received to date.

3. Utility certificates are a requirement of final plat approval.
4. Utility easements are required to be shown on the final plat.

Conclusion of Law:

Utility services are available to the subdivision.

**PROVISION OF LEGAL AND PHYSICAL ACCESS**

Findings of Fact:

1. Physical and legal access for this subdivision is proposed via Bailey Lane, Birch Creek Loop, and the internal road. (*Local Services*)
2. Both Bailey Lane and Birch Creek Loop are listed in Exhibit A of the Ravalli County Subdivision Regulations.
3. This applicant is proposing to improve the internal road to meet County standards. Requirements of final plat approval are that the road meets County standards and a road maintenance agreement that meets the required provisions.

Conclusion of Law:

With the conditions of approval and requirements of final plat approval, the proposal meets physical and legal access requirements.

# EXHIBIT A-1



## Montana Fish, Wildlife & Parks

RECEIVED

FEB 09 2007  
IC-07-02-166  
Ravalli County Planning Dept.

Region 2 Office  
3201 Spurgin Road  
Missoula, MT 59804-3101  
406-542-5500  
Fax 406-542-5529  
February 6, 2007

Jennifer De Groot  
Ravalli County Planning Department  
215 S. 4<sup>th</sup> St., Ste. F  
Hamilton, MT 59840

Reference: Mountain View Orchards, Lot 16A (Blk 2; LVI)--Proposed major (11 lots on 32.6 acres) subdivision--5 miles NNE of Corvallis

Dear Ms. De Groot:

We have reviewed the preliminary plat, topographic vicinity map, and aerial photo for this proposed subdivision, and our comments follow.

### Wildlife

This subdivision is located in the lower foothills that rise easterly towards the Sapphire Mountains. In addition to Birch Creek flowing a quarter mile south of this subdivision, there are several nearby gulches, creeks and topographic features favored by wildlife as habitat and movement corridors, as well as nearby agricultural fields. Wildlife such as white-tailed deer, coyote, fox, and skunk are found in the area, as well as an occasional black bear or possible mountain lion, and numerous small mammal and bird species. There is a general possibility of human/wildlife conflicts at this location if residents do not pay attention to careful handling of garbage, pet control, etc. We recommend that a "living with wildlife" section be included as a development covenant for this subdivision in order to help future homeowners deal with and avoid potential wildlife issues. We have attached a copy of our recommendation.

### Riparian

1. The plat depicts a "no build zone wetlands area" varying in width from about 20 to 125 feet along each side of the center line of a natural drainage that flows roughly south to northwest near the western edge of this proposed subdivision. We recommend that this zone be labeled on the plat as a "no build/alteration wetlands area" in order to further protect its functionality.

2. Encouraging the development of native vegetation (including shrubs and trees)--while *discouraging* actions such as grading, planting and irrigating lawns, mowing or cutting or clearing vegetation, and livestock grazing--would help preserve the functionality of this natural drainage, protect and improve wetland vegetation, enhance slope stability, and protect property from eroding banks and possible flooding. Enclosed is our recommended version of riparian covenants for this subdivision (applies to Lot 5 and the common area).

We thank you for providing the opportunity for FWP to comment on this subdivision.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mack Long', written in a cursive style.

Mack Long  
Regional Supervisor

ML/sr

C: PCI, PO Box 1750, Missoula, MT 59806-1750



Development Covenants for Mountain View Orchards, Tract 16A (LVI) subdivision, recommended by Montana Fish, Wildlife & Park; Missoula; February 6, 2007

## Section \_\_: Living with Wildlife

Homeowners must accept the responsibility of living with wildlife and must be responsible for protecting their vegetation from damage, confining their pets, and properly storing garbage, pet food, livestock feed and other potential attractants. Homeowners must be aware of potential problems associated with the occasional presence of wildlife such as deer, black bear, mountain lion, coyote, fox, skunk, raccoon and magpie. Please contact the Montana Fish, Wildlife & Parks office in Missoula (3201 Spurgin Road, Missoula, MT 59804) for brochures that can help homeowners "live with wildlife." Alternatively, see FWP's web site at [www.fwp.mt.gov](http://www.fwp.mt.gov).

The following covenants are designed to help minimize problems that homeowners could have with wildlife, as well as helping homeowners protect themselves, their property and the wildlife that Montanans value.

- a. Homeowners must be aware of the potential for **vegetation damage by wildlife**, particularly from deer feeding on green lawns, gardens, flowers, ornamental shrubs and trees in this subdivision. Homeowners should be prepared to take the responsibility to plant non-palatable vegetation or protect their vegetation (fencing, netting, repellents) in order to avoid problems. Also, consider landscaping with native vegetation that is less likely to suffer extensive feeding damage by deer.
- b. **Gardens and fruit trees** can attract wildlife such as deer and bears. Keep produce and fruit picked and off the ground, because rotting vegetable material can attract bears, skunks and other wildlife. To help keep wildlife such as deer out of gardens, fences should be 8 feet or taller. Netting over gardens can help deter birds from eating berries.
- c. **Garbage** should be stored in secure animal-resistant containers or indoors to avoid attracting wildlife such as bear and raccoon. It is best to not set garbage cans out until the morning of garbage pickup and to bring them in no later than that same evening.
- d. **Do not feed wildlife** or offer supplements (such as salt blocks), attractants, or bait for deer or other wildlife. Feeding wildlife results in unnatural concentrations of animals that could lead to overuse of vegetation and disease transmission. Such actions unnecessarily accustom wild animals to humans, which can be dangerous for both. It is against state law (MCA 87-3-130) to purposely or knowingly attract bears with supplemental food attractants (any food, garbage, or other attractant for game animals) or to provide supplemental feed attractants in a manner that results in "an artificial concentration of game animals that may potentially contribute to the transmission of disease or that constitutes a threat to public safety." Also, homeowners must be aware that deer might occasionally attract mountain lions to the area.
- e. **Birdseed** is an attractant to bears. If used, bird feeders should: a) be suspended a minimum of 20 feet above ground level, b) be at least 4 feet from any support poles or

points, and c) should be designed with a catch plate located below the feeder and fixed such that it collects the seed knocked off the feeder by feeding birds.

- f. **Pets** must be confined to the house, in a fenced yard, or in an outdoor kennel area when not under the immediate control of the owner, and not be allowed to roam as they can chase and kill big game and small birds and mammals. Under current state law it is illegal for dogs to chase hoofed game animals and the owner may also be held guilty (MCA 87-3-124). Keeping pets confined also helps protect them from predatory wildlife.
- g. **Pet food and/or livestock feed** should be stored indoors, in closed sheds or in animal-resistant containers in order to avoid attracting wildlife such as bears, mountain lions, skunks, raccoons, and other wildlife. **When feeding pets and/or livestock** do not leave food out overnight. Consider feeding pets indoors so that wild animals do not learn to associate food with your home.
- h. **Barbecue grills** should be stored indoors. Keep all portions of the barbecues clean. Food spills and smells on and near the grill can attract bears and other wildlife.
- i. Consider **boundary fencing** that is no higher than 3-1/2 feet (at the top rail or wire) and no lower than 18 inches (at the bottom rail or wire) in order to facilitate wildlife movement and help avoid animals such as deer becoming entangled in the fence or injuring themselves when trying to jump the fence. We encourage the use of split rail fences.
- j. **Compost piles** can attract skunks and bears. If used they should be kept indoors or built to be wildlife-resistant. Compost piles should be limited to grass, leaves, and garden clippings, and piles should be turned regularly. Adding lime can reduce smells and help decomposition. Do not add food scraps.
- k. **Apiaries (bee hives)** could attract bears in this area and [should be avoided/are not allowed] in this subdivision. (If used, consult Montana Fish, Wildlife & Parks or the U.S. Fish & Wildlife Service for help in planning and constructing an apiary system that will help deter bears.)
- l. These "living with wildlife" covenants cannot be altered or eliminated without consent of the governing body (Ravalli County Commissioners).

## Section \_\_: Riparian use guidelines

There is a natural drainage the flows roughly south to northwest through the common area and Lot 5. On each side of the drainage is a "no-build/alteration wetlands area" (buffer zone), depicted on the plat. Encouraging the development of native vegetation (including shrubs and trees)--while *discouraging* actions such as grading, planting and irrigating lawns, mowing or cutting or clearing vegetation, and livestock grazing--would help preserve the functionality of this natural drainage, protect and improve wetland vegetation, enhance slope stability, and protect property from eroding banks and possible flooding.

The following covenants, designed to guide use of this buffer zone, shall apply:

- a. No new building or alteration is allowed in the zone.
- b. Only non-motorized access and use of the buffer zone is allowed (except for certain maintenance needs such as weed spraying).
- c. Do not cut or remove live or dead vegetation, particularly shrubs and trees from the buffer zone. Wood (i.e., fallen branches, downed trees) is an important part of habitat and contributes significantly to overall slope stability, and dead trees also function as important wildlife nesting habitat. Exception: proper use of chemicals or other methods of control (other than mowing) for noxious weeds is allowed, and planting appropriate native riparian vegetation (trees, shrubs) is allowed.
- d. Do not plant lawns or crops in the buffer zone. Leave or plant native vegetation as ground cover as this avoids the use of fertilizers that contribute to water quality problems.
- e. If planting is planned for this area, the goal should be to re-establish native plant species appropriate to the site.
- f. In general, keep livestock out of the natural drainage, and do not include the drainage in corrals. Use fences to keep livestock from trampling and grazing riparian vegetation in the buffer zone.
- g. In summary, allow riparian areas--the drainage channel and its buffer zone--to remain undisturbed. Do not modify them unless such change would help return the area to a natural state.
- h. These riparian covenants cannot be altered or eliminated without consent of the governing body (Ravalli County Commissioners).

## EXHIBIT A-2

### (a) Prime farmlands.

(1) General. Prime farmland is land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops, and is also available for these uses (the land could be cropland, pastureland, rangeland, forest land, or other land, but not urban built-up land or water). It has the soil quality, growing season, and moisture supply needed to economically produce sustained high yields of crops when treated and managed, including water management, according to acceptable farming methods. In general, prime farmlands have an adequate and dependable water supply from precipitation or irrigation, a favorable temperature and growing season, acceptable acidity or alkalinity, acceptable salt and sodium content, and few or no rocks. They are permeable to water and air. Prime farmlands are not excessively erodible or saturated with water for a long period of time, and they either do not flood frequently or are protected from flooding. Examples of soils that qualify as prime farmland are Palouse silt loam, 0 to 7 percent slopes; Brookston silty clay loam, drained; and Tama silty clay loam, 0 to 5 percent slopes.

(2) Specific criteria. Prime farmlands meet all the following criteria: Terms used in this section are defined in USDA publications: "Soil Taxonomy, Agriculture Handbook 436"; "Soil Survey Manual, Agriculture Handbook 18"; "Rainfall-erosion Losses From Cropland, Agriculture Handbook 282"; "Wind Erosion Forces in the United States and Their Use in Predicting Soil Loss, Agriculture Handbook 346"; and "Saline and Alkali Soils, Agriculture Handbook 60."

#### (i) The soils have:

(a) Aquic, udic, ustic, or xeric moisture regimes and sufficient available water capacity within a depth of 40 inches (1 meter), or in the root zone (root zone is the part of the soil that is penetrated or can be penetrated by plant roots) if the root zone is less than 40 inches deep, to produce the commonly grown cultivated crops (cultivated crops include, but are not limited to, grain, forage, fiber, oilseed, sugar beets, sugarcane, vegetables, tobacco, orchard, vineyard, and bush fruit crops) adapted to the region in 7 or more years out of 10; or

(b) Xeric or ustic moisture regimes in which the available water capacity is limited, but the area has a developed irrigation water supply that is dependable (a dependable water supply is one in which enough water is available for irrigation in 8 out of 10 years for the crops commonly grown) and of adequate quality; or,

(c) Aridic or torric moisture regimes, and the area has a developed irrigation water supply that is dependable and of adequate quality; and,

(ii) The soils have a temperature regime that is frigid, mesic, thermic, or hyperthermic (pergelic and cryic regimes are excluded). These are soils that, at a depth of 20 inches (50 cm), have a mean annual temperature higher than 32 deg. F (0 deg. C). In addition, the mean summer temperature at this depth in soils with an O horizon is higher than 47 deg. F (8 deg. C); in soils that have no O horizon, the mean summer temperature is higher than 59 deg. F (15 deg. C); and,

(iii) The soils have a pH between 4.5 and 8.4 in all horizons within a depth of 40 inches (1 meter) or in the root zone if the root zone is less than 40 inches deep; and,

(iv) The soils either have no water table or have a water table that is maintained at a sufficient depth during the cropping season to allow cultivated crops common to the area to be grown; and,

(v) The soils can be managed so that, in all horizons within a depth of 40 inches (1 meter) or in the root zone if the root zone is less than 40 inches deep, during part of each year the conductivity of the saturation extract is less than 4 mmhos/cm and the exchangeable

sodium percentage (ESP) is less than 15; and,

(vi) The soils are not flooded frequently during the growing season (less often than once in 2 years); and,

(vii) The product of K (erodibility factor) x percent slope is less than 2.0, and the product of I (soils erodibility) x C (climatic factor) does not exceed 60; and

(viii) The soils have a permeability rate of at least 0.06 inch (0.15 cm) per hour in the upper 20 inches (50 cm) and the mean annual soil temperature at a depth of 20 inches (50 cm) is less than 59 deg. F (15 deg. C); the permeability rate is not a limiting factor if the mean annual soil temperature is 59 deg. F (15 deg. C) or higher; and,

(ix) Less than 10 percent of the surface layer (upper 6 inches) in these soils consists of rock fragments coarser than 3 inches (7.6 cm).

**Montana Supplemental Criteria:** *The soils have 4 inches or more of available water holding capacity within a depth of 40 inches (1 meter). AWC is calculated as the accumulated mean from the MUIR data.*

**(b) Unique farmland.**

(1) General. Unique farmland is land other than prime farmland that is used for the production of specific high value food and fiber crops. It has the special combination of soil quality, location, growing season, and moisture supply needed to economically produce sustained high quality and/or high yields of a specific crop when treated and managed according to acceptable farming methods. Examples of such crops are citrus, tree nuts, olives, cranberries, fruit, and vegetables.

(2) Specific characteristics of unique farmland.

(i) Is used for a specific high-value food or fiber crop.

(ii) Has a moisture supply that is adequate for the specific crop. The supply is from stored moisture, precipitation, or a developed irrigation system.

(iii) Combines favorable factors of soil quality, growing season, temperature, humidity, air drainage, elevation, aspect, or other conditions, such as nearness to market, that favor the growth of a specific food or fiber crop.

**(c) Additional farmland of statewide importance.**

This is land, in addition to prime and unique farmlands, that is of statewide importance for the production of food, feed, fiber, forage, and oil seed crops. Criteria for defining and delineating this land are to be determined by the appropriate state agency or agencies. Generally, additional farmlands of statewide importance include those that are nearly prime farmland and that economically produce high yields of crops when treated and managed according to acceptable farming methods. Some may produce as high a yield as prime farmlands if conditions are favorable. In some states, additional farmlands of statewide importance may include tracts of land that have been designated for agriculture by state law.

**Montana Farmland of Statewide Importance Criteria:**

1. Product of C (climatic factor) x I (soils erodibility) is less than 80.
2. Product of Kw (erodibility factor) x maximum slope is less than or equal to 3.
3. Frost free season is greater than 70 days.
4. Not frequently flooded during the growing season.
5. Depth to water table is greater than or equal to 24 inches.
6. Surface layer is not cobbly or stony (<15% by volume rock fragments greater than 3 inches).
7. Available water holding capacity in the upper 40 inches is  $\geq 3.75$  inches.
8. pH is  $\leq 9.0$  in upper 40 inches.
9. EC (electrical conductivity) is  $\leq 4$  in upper 24 inches and  $\leq 8$  from 24 to 40 inches.
10. SAR (sodium adsorption ratio) is  $< 13$  in upper 24 inches.
11. Permeability of the upper 20 inches is not slow or very slow.

**(d) Additional farmland of local importance.**

In some local areas, there is concern for certain additional farmlands for the production of food, feed, fiber, forage, and oilseed crops, even though these lands are not identified as having national or statewide importance. Where appropriate, these lands are to be identified by the local agency or agencies concerned. In places, additional farmlands of local importance may include tracts of land that have been designated for agriculture by local ordinance.

**This is an example of possible criteria for farmland of local importance, but as of 3/28/2006 Ravalli County has not adopted any criteria for the county to use to evaluate farmlands of local importance.**

*The soil map unit is not already designated as Prime Farmland, Prime Farmland if irrigated, or Farmland of Statewide Importance and has one or more of the following:*

- 1. Soil map units that have 50% or more named components meeting prime or statewide criteria.*
- 2. Soil map units that have slopes less than 15%, are not frequently flooded, are poorly drained or better, and where at least 50% of the named components meet at least one of the following yields:*
  - a. Spring wheat  $\geq 30$  bushels per non-irrigated acre*
  - b. Alfalfa hay  $\geq 4$  tons per irrigated acre*
  - c. Grass hay  $\geq 3$  tons per irrigated acre*
  - d. Pasture (AUM)  $\geq 1$  per acre, non-irrigated;  $\geq 5$  per acre, irrigated*

# EXHIBIT A-3

RECEIVED  
MAR 8 2004  
LC 04-03-361

## CORVALLIS RURAL FIRE DISTRICT IMPACT FEES

The Corvallis Rural Fire District has established the following requirements for new purposed subdivisions within its district. The requirements were established with consideration for life, safety of the residents of the district, as well as the Volunteers who are called upon to protect the district, and to mitigate harm to the public health and environment.

When establishing the requirements, emphasis was given to the Uniform Fire Code, Articles 9 and 10, and Appendix III-A, the Ravalli County Subdivision Regulations, the Ravalli County Road Department standards, and the 1993 Fire Protection Guidelines for Wildland Residential Interface Development. These Publications and Articles establish rules for dealing with fire apparatus access roads, fire department access to buildings, water supplies for fire protection, installation and maintenance of fire protection systems, and clearance of brush and vegetative growth from roadways.

Consideration was also given to Section 23.7.105 Administrative Rules of Montana, which is adopted pursuant to authority of 50-3-102 (2) and 50-3-103, MCA, which incorporates by reference the UFC (Uniform Fire Code) and establishes a minimum fire prevention code for Montana.

Every effort has been made to use words and phrases consistent with their definitions in the above mentioned publications.

Development Name: A.P. Lot 1, Blk 9, Sunnyside Orchards #3 (3rd Submittal)  
Number of Lots: 3  
Developer(s) Name: ?

The Fire Department requires that all roads and bridges meet or exceed, and are maintained to, the requirements of the Uniform Fire Code (UFC) Section 902, which reads in part:

902.2.1 Required Access: Fire apparatus shall be provided in accordance with Sections 901 and 902.2 for every facility, building, or portion of a building hereafter constructed or moved into or within the jurisdiction when any portion of the facility or any portion of an exterior wall of the first story of the building is located more than 150 feet (45,720 mm) from fire apparatus access, as measured by an approved route around the exterior of the building or facility...

**EXCEPTIONS:** When buildings are completely protected with an approved automatic sprinkler system, the provisions of Sections 902.2.1 and 902.2.2 may be modified by the Chief.

**902.2.2.1 Dimensions.** Fire apparatus access roads shall have an unobstructed width of no less than 20 feet (6096 mm) and an unobstructed vertical clearance of no less than 13 feet 6 inches (4115 mm).

**902.2.2.2 Surface.** Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus, and shall be provided with a surface to provide all-weather driving capabilities.

**902.2.2.6 Grade.** The gradient for a fire apparatus access road shall not exceed the maximum approved by the Chief. {The Chief accepts the Resolution approved by the Board of County Commissioners of Ravalli County. The Resolution sets the maximum acceptable road grade by the County for dedication and maintenance at six percent (6%).}

While not all parts of the UFC Section 902 are listed above, it is the responsibility of the Subdivision Developer to construct and maintain all fire apparatus access roads to comply with all aspects of the UFC and Ravalli County Standards.

#### **SPECIFIC REQUIREMENTS:**

The Fire District requires that all lots (premises) meet the requirements of UFC 901.4.4 as soon as construction begins with a temporary or permanent address posted at the premises driveway and upon occupancy with a permanent address posted in accordance with the above UFC. It appears that the access to all lots will be adequate if built as submitted.

#### **WATER SUPPLY REQUIREMENTS:**

The water supply required by the Uniform Fire Code for one or two family dwellings, not exceeding 3600 square feet, requires a flow rate of 1000 g.p.m. The code does not specify the duration of flow for one and two family dwellings; however, the Fire Protection Guidelines for Wildland Residential Interface Development and the Ravalli County Subdivision Regulations list the minimum water supply of 2500 gallons per lot.


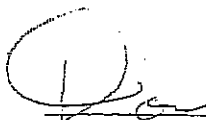


The Corvallis Rural Fire District currently has an ISO Class 5 Residential rating which requires a water flow of 200 gallons per minute for a duration of 20 minutes, or a total flow of 4000 gallons per residence.

Considering the above information, the Fire District will accept a water supply of 1000 gallons per minute or 2500 gallons per lot of stored water. The water supply installation, up-keep and maintenance will be the responsibility of the Subdivision.

The Fire District realizes the financial burden of installing and maintaining a water supply and/or storage tanks capable of providing the required water flows, and is willing to accept a payment of \$500.00 (Five Hundred Dollars) per lot, in lieu of the water supply required by the UFC. The payment per lot must be paid upon approval of the Subdivision. The Fire District will then, upon its elective, purchase fire fighting apparatus or develop water supplies.

**EXCEPTIONS:** When buildings are completely protected with an automatic sprinkler system approved by the Chief, the above listed water supply may be reduced by 50%. The Subdivision Covenants must state that "All residences constructed within the Subdivision be completely protected with an approved automatic sprinkler system." The Fire District will provide a \$250.00 reimbursement to those residences with an approved automatic sprinkler system.



Chairperson

Date

# EXHIBIT A-4

RECEIVED

MAY 31 2007

May 28, 2007

Jennifer De Groot  
Planning Department  
215 S 4<sup>th</sup> Street, Suite F  
Hamilton, MT 59840

Ravalli County Planning Dept.

IC-07-05-677

Subject: Mountain View Orchards, Block 2, Lot 16A

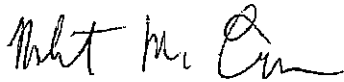
Dear Jennifer:

Thank you for providing the Ravalli County Parks Board with a preliminary plat for Mountain View Orchards. This is a major subdivision with 11 lots on 32.6 acres.

The Parks Board had a site visit with the owner, Jeff Peters, and developer, Becky Weaver about a month ago. The required recreation land dedication for this subdivision would be approximately 1.43 acres. The proponent has proposed dedicating 1.7 acres for a homeowner administered park. The Ravalli County Parks Board concurs with this proposed dedication.

Please don't hesitate to contact us further if there are questions.

Sincerely,



*for*  
Gary Leese  
Chairperson  
Ravalli county Parks Board

cc: Jeff Peters

# EXHIBIT A-5

Vanessa Perry

---

From: Ramer, Jean L NWO [Jean.L.Ramer@nwo02.usace.army.mil]  
Sent: Friday, April 27, 2007 5:10 PM  
To: Jeff Peters  
Cc: Vanessa Perry  
Subject: RE: Jeff Peters Ravalli County Subdivision

Dear Jeff,

As we discussed, it is preferable to the Corps for wetlands to be left undisturbed within the subdivision. We would not consider a cash in lieu arrangement as an appropriate option because the wetland, as you have stated, is a part of the subdivision that you intend to leave undisturbed. Our regulations require that if a wetland area can be avoided, then it should be.

If there is no need to fill the area to achieve your project purpose (developing lots) then it would be difficult to obtain a permit for this activity.

I regret I can't draft a more formal response. I don't have the specifics of the location or any knowledge of this particular area. My statements above apply generically to the 404 permit program. I am copying Ms. Vanessa Perry with the Ravalli County Planning Office on this correspondence. You or Vanessa may forward this information as needed. Please contact me if you have additional questions.

Jean Ramer  
Regulatory Project Manager  
US Army Corps of Engineers  
Helena Regulatory Office  
10 West 15th Street, Suite 2200  
Helena, Montana 59626  
Phone (406) 441-1378  
Fax (406) 441-1380  
Jean.L.Ramer@usace.army.mil  
<https://www.nwo.usace.army.mil/html/od-rmt/mthome.htm>

-----Original Message-----

From: Jeff Peters [mailto:jeff@cybernet1.com]  
Sent: Friday, April 13, 2007 9:06 PM  
To: Ramer, Jean L NWO  
Subject: Jeff Peters Ravalli County Subdivision

Hello Jean

I called and talked with you on wednesday about some help with a park area, in a subdivision. I called and got your email address.

Thank You

Jeff Peters  
406-360-8121

**SUBDIVISION APPLICATION PACKET CHECKLIST - Water and Sanitation Information Per MCA 76-3-622**

Name of Subdivision: <i>MOUNTAIN VIEW ORCHARDS, Block 2, Lot 16A AP</i>		
Subdivider/Landowner Name(s): <i>LVI</i>		
Consultant Name: <i>PCI</i>		
Date Received: <i>11-21-06</i>		Sufficiency Review Due Date: <i>11-21-06</i>
Yes	No	N/A
Item		Additional information/Staff comments

(1) Unless the land division is excluded from review under 76-4-125(2), the subdivider shall submit to the information listed below for proposed subdivisions that will include new water supply or wastewater facilities.

<input checked="" type="checkbox"/>		Provide two copies of the following information with a check paid to RCEH for their \$50.00 sufficiency review fee.
<input checked="" type="checkbox"/>		(a) Vicinity Map or Plan
<input checked="" type="checkbox"/>		(i) The location, within 100 feet outside of the exterior property line of the subdivision and on the proposed lots, of:
<input checked="" type="checkbox"/>		(A) flood plains
<input checked="" type="checkbox"/>		(B) surface water features
<input checked="" type="checkbox"/>		(C) springs
<input checked="" type="checkbox"/>		(D) irrigation ditches
<input checked="" type="checkbox"/>		(E) existing, previously approved, and, for parcels less than 20 acres, proposed water wells and wastewater treatment systems
<input checked="" type="checkbox"/>		(F) for parcels less than 20 acres, mixing zones identified as provided in subsection (1)(g);
<input checked="" type="checkbox"/>		(G) the representative drainfield site used for the soil profile description as required under subsection (1)(d)
<input checked="" type="checkbox"/>		(ii) The location, within 500 feet outside of the exterior property line of the subdivision, of public water and sewer facilities
<input checked="" type="checkbox"/>		(b) A description of the proposed subdivision's water supply systems, storm water systems, solid waste disposal systems, and wastewater treatment systems, including whether the water supply and wastewater treatment systems are individual, shared, multiple user, or public as those systems are defined in rules published by DEQ.
<input checked="" type="checkbox"/>		(c) A drawing of the conceptual lot layout at a scale no smaller than 1" = 200' that shows all information required for a lot layout document in rules adopted by the DEQ pursuant to 76-4-104.

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Yes	No	N/A	Item	Additional Information/Staff comments
			(d) Evidence of suitability for new onsite wastewater treatment systems that, at a minimum, includes:	
✓			(i) A soil profile description from a representative drainfield site identified on the vicinity map, as provided in subsection (1)(a)(i)(G), that complies with standards published by DEQ.	
✓			(ii) Demonstration that the soil profile contains a minimum of 4 feet of vertical separation distance between the bottom of the permeable surface of the proposed wastewater treatment system and a limiting layer.	
✓			(iii) In cases in which the soil profile or other information indicates that ground water is within 7 feet of the natural ground surface, evidence that the ground water will not exceed the minimum vertical separation distance provided in subsection (1)(d)(ii);	
✓			(e) For new water supply systems, unless cisterns are proposed, evidence of adequate water availability:	
✓			(i) obtained from well logs or testing of onsite or nearby wells;	
✓			(ii) obtained from information contained in published hydrogeological reports; <u>OR</u>	
✓			(iii) as otherwise specified by rules adopted by DEQ pursuant to 76-4-104;	
✓			(f) Evidence of sufficient water quality in accordance with rules adopted by DEQ pursuant to 76-4-104;	
✓			(g) A preliminary analysis of potential impacts to ground water quality from new wastewater treatment systems, using as guidance rules adopted by the board of environmental review pursuant to 75-5-301 and 75-5-303 related to standard mixing zones for ground water, source specific mixing zones, and nonsignificant changes in water quality.	The preliminary analysis may be based on currently available information and must consider the effects of overlapping mixing zones from proposed and existing wastewater treatment systems within and directly adjacent to the subdivision. Instead of performing the preliminary analysis required under this subsection (1)(g), the subdivider may perform a complete nondegradation analysis in the same manner as is required for an application that is reviewed under Title 76, chapter 4.

